

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF OKLAHOMA

ROBERT JAMES FOX,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. CIV-08-97-FHS
	)	
THE CITY OF COALGATE, et al.,	)	
	)	
Defendants.	)	

**ORDER**

On April 3, 2008, the Court entered an order directing Plaintiff, Robert James Fox, to either submit an appropriate second amended motion to proceed *in forma pauperis* or submit the \$350.00 filing fee to the Clerk of the Court by April 18, 2008. Plaintiff was further informed that his failure to comply with this order would result in the dismissal of this action without prejudice. On April 21, 2008, Plaintiff filed his "Notice of 28 USC § 1915 Second Amended Affidavit of Inability Presented By Affidavit Of Robert James: Fox." Although this document was not timely filed, the Court will exercise its discretion and consider the merits of the application to proceed *in forma pauperis* as embodied in the Second Amended Affidavit.

Similar to the Amended Affidavit, the bulk of the Second Amended Affidavit is nonresponsive to the issue of Plaintiff's financial ability to pay fees and costs. The Second Amended Affidavit is a replica of the Amended Affidavit with the addition of the following highlighted sentences to paragraph eight, page five:

Proceeding as a missionary sustained by donations, I

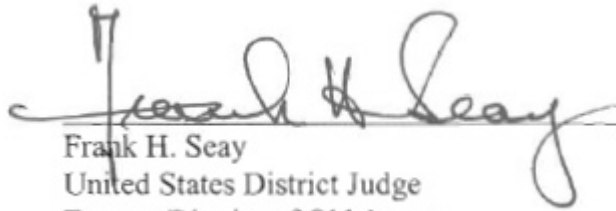
currently have no bank accounts, no insurance policies, no real estate, no automobiles, no stocks or bonds, no yachts, no aircraft, no wife due to the armed attacks whereby she declared that she was afraid the Systemites would kill her when they come to murder me. I am so poor that I cannot even afford to have a social security number. **I was anticipating the possibility of financial improvement effective today, however, I am duly informed that the possibility of said donation has been set off to May 14, even then it is only a possibility. I am typically provided only with the free will tithes and offerings sufficient for my subsistence, and therefore derive no income with which I could pay the filing fees. I simply do not have the financial resources today to pay filing fees.**

Again, as with Plaintiff's initial "Affidavit," the Court finds this "Second Amended Affidavit" to be insufficient to allow Plaintiff to proceed *in forma pauperis*. These statements in the "Amended Affidavit" are a partial listing of what Plaintiff does not possess. They do not reflect an accurate accounting of the assets and financial resources potentially available to Plaintiff. In fact, the additional information provided by Plaintiff reinforces the Court's finding that an accurate accounting has not been made as Plaintiff has the benefit of "donations," and "free will tithes and offerings," all of which Plaintiff has failed to quantify and account for. To allow Plaintiff to proceed *in forma pauperis* under these circumstances would amount to a *pro forma* approval of indigent status to anyone like Plaintiff who makes the naked assertion that they "do not have the financial resources today to pay the filing fees." The Court declines to do so and finds Plaintiff has failed to provide the Court with an accurate statement of his overall financial condition which would allow the Court to assess his ability to pay any fees herein as required under 28 U.S.C. § 1915(a)(1)

Consequently, Plaintiff's request to proceed *in forma pauperis*

as encompassed within his "Second Amended Affidavit" is denied. Consistent with the Court's admonition in its April 3, 2008, order, this action is therefore ordered dismissed without prejudice.

It is so ordered this 22<sup>nd</sup> day of April, 2008.



Frank H. Seay  
United States District Judge  
Eastern District of Oklahoma